

REMARKS

I. Summary of the Office Action

The Final Office Action mailed April 1, 2009 (“the Office Action”) made the following objections and/or rejections, each of which is addressed in more detail below:

Claims 1, 3-6, 11-16, and 31-40 were rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

Claims 1, 3-6, 11-16, and 31-40 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Claims 1, 3-6, 11, 14-15, and 31-40 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,339,392 (“Risberg”) in view of U.S. Patent No. 7,068,288 (“Good”).

Claims 12-13 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Risberg in view of Good further in view of Official Notice.

II. Status of the Claims

The present application includes claims 1, 3-6, 11-16, and 31-40. By this Response, claims 1, 3-6, 11-16, and 31-40 have been cancelled, and new claims 41-67 have been added. Claims 1, 3-6, 11-16, and 31-40 were cancelled without prejudice and disclaimer in order to expedite prosecution, and the Applicant expressly reserves the right to pursue the subject matter of the cancelled claims in a continuing application.

Based on the Applicant’s understanding of the Office Action, it appears that there was not a mutual understanding between the Examiner and the Applicant as to what was recited in the previously pending claims. Consequently, the Applicant has provided the new claims in an attempt to clarify what is being claimed. The Applicant respectfully submits that the new claims are generally in accord with the features discussed, and tentatively agreed to as being patentable over the cited art, in the Interview on December 17, 2008 and referenced in the Response filed January 5, 2009 (“the Prior Response”) at page 9. The Office Action appears to acknowledge this tentative agreement regarding the features discussed at page 7, but disputes that the

previously pending claims recited the discussed features. While the Applicant respectfully disagrees, the Applicant hopes that the new claims more clearly recite these features.

In accordance with the request in the Office Action at pages 10-11, the Applicant provides the following citations as examples of where support may be found in the Specification for the features recited in the new claims:

- Independent Claims 41 & 67 – page 6; page 20, paragraph beginning at line 21; and page 27, paragraph beginning at line 9 through page 28, paragraph beginning at line 8;
- Dependent Claims 42-43 – page 26, paragraph beginning at line 14;
- Dependent Claims 44-45 – page 22, paragraph beginning at line 8;
- Dependent Claims 46-51 – page 21, paragraph beginning at line 9;
- Dependent Claims 52-55 – page 22, paragraph beginning at line 16, and page 17, paragraph beginning at line 19;
- Dependent Claims 56-65 – page 22, paragraph beginning at line 16, and page 19, paragraph beginning at line 1; and
- Dependent Claim 66 – page 22, paragraph beginning at line 16, and page 23, paragraph beginning at line 13.

Consequently, the Applicant respectfully submits that no new matter has been added by these amendments.

Because the previously pending claims have been cancelled, the Applicant respectfully submits that the pending rejections are now all moot and should be withdrawn. However, in the interest of expediting prosecution, the Applicant will address the pending rejections with respect to the new claims where applicable.

III. Interview Request

If, after reviewing the present Response, the Examiner does not feel that a Notice of Allowance should be issued, the Applicant hereby expressly requests an interview with the Examiner in advance of preparation of an Office Action in reply to the present Response.

The Applicant believes that an interview may help achieve a mutual understanding between the Examiner and the Applicant and thereby advance the prosecution of the application. The Examiner is invited to contact the Applicant to schedule the interview at a date and time convenient to the Examiner and when the Examiner has had an opportunity to review the present Response.

The Applicant's representative Adam Faier may be reached at 312-698-6003, Monday-Friday, 9am-6pm Eastern.

IV. Related Applications

The Applicant understands that the Examiner reviews the claims and prosecution history of related applications as they contain common subject matter. To this end, the Applicant reminds the Examiner that the present application is related through a common claim of priority to U.S. Patent Application Serial No. 11/415,395.

In addition, for the purposes of the present application, the Applicant hereby rescinds any disclaimer of claim scope that may have been (or may be) made during the prosecution of any related application. The Applicant respectfully requests examination of the instant claims according to the claim language in light of the prior art without importing statements made by the Applicant in the prosecution of any related application.

V. Claim Rejections – 35 U.S.C. § 101

The Applicant now turns to the rejection of claims 1, 3-6, 11-16, and 31-40 under 35 U.S.C. § 101 as being directed to non-statutory subject matter. As noted above, these claims have been cancelled, and consequently, the Applicant respectfully submits these rejections are moot and should be withdrawn. The Applicant respectfully submits the new claims recite patentable subject matter.

The Office Action stated at page 11 that “regarding method claim 1 that the claimed invention must also recite transformation of data by a machine or apparatus (e.g. a computer) that produces a ‘useful, concrete and tangible’ result This is also true for claim 40, since it is not clear a useful result is produced.” The Applicant believes that this is not a correct

statement of the requirements for patentable subject matter. The Applicant's understanding of the *Bilski* decision by the Court of Appeals for the Federal Circuit is that the "useful, concrete and tangible result" inquiry is not the proper test for determining subject matter eligibility. Rather, the machine-or-transformation test, which has already been addressed, is the proper test.

An Office Action was mailed on April 2, 2009 in a continuation of the present application, U.S. Patent Application Serial No. 11/415,395 ("the child case"). In addressing a similar rejection at page 5, the Office Action in the child case referred to MPEP § 2106(IV)(C)(2). Assuming that the present rejection was based on similar grounds, the Applicant respectfully submits that the rejection is incorrect. MPEP § 2106(IV)(C) is concerned with determining whether a claimed invention that falls within one of the four enumerated categories of patentable subject matter (which the pending claims do) might be directed to nothing more than abstract ideas, natural phenomena, and laws of nature, which are not eligible for patent protection. The Applicant respectfully submits that both the previously pending claims and the new claims are not directed to abstract ideas, natural phenomena, or laws of nature. Consequently, the test referenced by the Office Action is not applicable.

Regardless, the Applicant respectfully submits that the new claims (as well as the previously pending claims) do produce a "useful, concrete and tangible result." For example, activation of the second virtual workspace in response to detecting the triggering event includes displaying the plurality of windows according to the second, different, predefined layout. This is clearly concrete (it is repeatable) and tangible (it produces a real-world result). Further, the Applicant respectfully submits that such a transformation is useful (it has specific, substantial, credible utility) because for a user of the displayed windows, it can assist a trader in trading in an electronic trading environment.

Therefore, for at least the reasons discussed above, the Applicant respectfully submits that the new claims (like the previously pending claims) recite patentable subject matter.

VI. Claim Rejections – 35 U.S.C. § 112

The Applicant now turns to the rejection of claims 1, 3-6, 11-16, and 31-40 under 35 U.S.C. § 112, second paragraph, as being indefinite. As discussed above, the rejected claims have been cancelled, and therefore, the Applicant respectfully submits these rejections are moot and should be withdrawn.

With respect to the new claims, the Applicant believes only one of the rejections may be applicable. At page 12, the Office Action stated that “Claim 1 has ‘different arrangement’ where ‘different’ is indefinite since it is a relative term[.]” While the new claims do not expressly recite a “different arrangement,” independent claims 41 and 67 do recite “the second predefined layout is different from the first predefined layout.” In the interest of expediting prosecution, the Applicant will address this rejection with respect to the new claims.

The Applicant first respectfully disagrees that “different” is indefinite. While the term may be relative, the Applicant respectfully submits that it would be clear to one of ordinary skill in the art whether one arrangement of windows is different from a second arrangement of windows. Similarly, in the new claims, the Applicant respectfully submits that one of ordinary skill in the art would understand what it means for a second predefined layout of windows to be different from a first predefined layout of windows. The Applicant respectfully submits that, in both cases, one of ordinary skill in the art would be able to definitively determine whether the locations of each window in a set of windows were different as between two different arrangements or layouts.

Consequently, the Applicant respectfully submits that the new claims are not indefinite for this reason.

VII. Claim Rejections – 35 U.S.C. § 103

The Applicant now turns to the rejection of claims 1, 3-6, 11, 14-15, and 31-40 under 35 U.S.C. § 103(a) as being unpatentable over Risberg in view of Good. As discussed above, the rejected claims have been cancelled, and therefore, the Applicant respectfully submits that these rejections are moot and should be withdrawn.

With respect to the new claims, the Applicant respectfully submits that the proposed combination of Risberg and Good does not teach or suggest the entirety of the features recited in the new claims for at least the reasons discussed below.

In addition to the discussion below, the Applicant notes both Risberg and Good have been discussed in previous Responses in this case. For brevity, that prior discussion will not be repeated here.

The Applicant respectfully submits that Risberg does not teach or suggest at least these features recited in the pending claims:

- a first virtual workspace is associated with a plurality of windows, wherein the plurality of windows are for at least two applications, wherein the first virtual workspace provides a first predefined layout for the plurality of windows;
- a second virtual workspace is associated with the plurality of windows, wherein the second virtual workspace provides a second predefined layout for the plurality of windows, wherein the second predefined layout is different from the first predefined layout;
- the second virtual workspace is associated with a triggering event definition; and
- activating at the computing device the second virtual workspace in response to detecting the triggering event, wherein activating the second virtual workspace includes displaying the plurality of windows according to the second predefined layout of the second virtual workspace.

Risberg, as discussed beginning at col. 2, line 27, provides a computer application that lets a user define an “active document.” As noted in the Office Action at page 13, an “active document” is a video displayed document of one or more “sheets” of the user’s design, which incorporates text displays of real time data, alarms, and alarm scripts. A menu of commands, discussed beginning at col. 5, line 19, allows the user to display an index of sheets that have been defined and to select the sheet to view. The menu also allows the user to manage sheets and to rearrange the location of display object boxes within a sheet.

Risberg expressly distinguishes these display object boxes from “windows” in which separate processes may be running in multitasking environments at col. 5, lines 26-29. In the preferred embodiment, the display object boxes may be layered on top of each other, and the menu includes options to change the order of the layers. Preferably, only one sheet is shown on the display at any particular time, but in alternative embodiments, several sheets may be shown in separate “windows” or layers on the display. Read in context, the Applicant respectfully submits that Risberg permits display boxes within a particular sheet to be rearranged and that one or more sheets may be shown on the screen at a time, each as part of a separate window. Risberg makes no mention of manipulating the locations of the window(s) (for the single application of

Risberg) that contain the sheets. Rather, Risberg is concerned with manipulating the **contents** of window(s), not the windows themselves.

The Applicant is concerned that Risberg is being misinterpreted and given improper and undue weight based on numerous remarks in the Office Action. For example, at page 10, the Office Action states that “the Examiner maintains that Risberg alone teaches many aspects of Applicant’s invention.” The Applicant respectfully disagrees and respectfully submits that Risberg is only tangentially material to the pending claims and that Good is a closer piece of art. As discussed above, Risberg is concerned with manipulating the contents of a window for an application. Risberg expressly distinguishes the display object boxes, which are manipulated, from the types of windows that are recited in the pending claims and then discusses that manipulation of boxes, not windows. In view of this express and clear distinction made by Risberg, the Applicant respectfully submits that Risberg makes almost no mention of windows at all, certainly makes no mention those windows being associated with virtual workspaces or changing the layout of those windows, and that the manipulation of the boxes cannot be read so broadly as to disclose changing the location of the windows themselves. Consequently, the Applicant respectfully submits that Risberg cannot and does not “teach many aspects” of the pending claims.

As another example, the Office Action states at page 7 that “Applicant’s arrangement of windows could be Fig. 1 of Risberg and hiding an object in Fig. 1. Risberg does this. Risberg teaches display hiding objects, where display objects are graphs, tables, etc.” The Applicant respectfully disagrees. Figure 1 of Risberg, as stated at col. 1, lines 35-38, is an example of a user defined sheet in an active document. As discussed above, this sheet is in a single window of Risberg. The Applicant fails to see how the previously pending claims or the new claims can possibly be read such that the single window of Figure 1 of Risberg somehow discloses the claimed plurality of windows. The Office Action appears to imply on pages 6-7 that, because a window might be hidden or placed on top of another window (presumably such as the one shown in Figure 1 of Risberg?), somehow Risberg’s disclosure in Figure 1 of a single window is disclosure of a plurality of windows associated with a virtual workspace. It is not. The claims clearly require a plurality of windows (and those windows associated with different applications). Further, the Applicant’s review of Risberg revealed only the brief mention of a plurality of windows discussed above. Figure 1 certainly does not illustrate such a plurality.

There is simply no reason to assume, as the Office Action seems to imply, that Figure 1 may include some “hidden” window.

As another example, at pages 8-9, the Office Action points to the claims of Risberg as teaching various features similar to those identified above. Again, the Applicant respectfully disagrees. The claims of Risberg make no mention of windows, much less changing the locations of those windows. The claims, like the rest of Risberg, are concerned with manipulating the **contents** of a window, not the location of the window itself. The Applicant again reminds the Examiner that Risberg expressly distinguishes the display object boxes from windows and is concerned with the manipulation of the former, not the latter.

As noted above, the pending claims recite two virtual workspaces associated with a plurality of windows for at least two applications. In contrast, as discussed above, Risberg is a single application which may have multiple windows, each showing a different sheet. That is, even in an embodiment where the program of Risberg may display multiple windows, those windows are for a single application (the computer program of Risberg). In addition, the Applicant respectfully submits that these windows are not associated with one virtual workspace, much less two. Risberg simply makes no mention of virtual workspaces, which are defined to be associated with a plurality of windows.

Additionally, the pending claims recite that the second virtual workspace is associated with a triggering event definition. Even assuming for the sake of argument that the alarms and sheets disclosed by Risberg are similar to the claimed triggering event definition and the virtual workspaces, respectively, the Applicant respectfully submits that the alarms of Risberg are associated with the active document, not with a particular sheet to be activated when the alarm limit is exceeded.

Further, the Applicant respectfully submits that Risberg does not disclose changing the layout of windows when a triggering event is detected, as recited in the pending claims. As discussed above, Risberg mentions that sheets may be displayed in multiple windows. However, Risberg does not disclose of changing the layout of these windows, in response to a triggering event or otherwise. Rather, the portions of Risberg which have been previously discussed (for example, alarm scripts), merely state that such scripts may allow active objects (which are displayed in display object boxes of the sheets in the windows) to be rearranged within a particular sheet or the displayed sheet to be changed. The Applicant respectfully submits that

Risberg simply makes no mention of changing the layout of the windows (as contrasted with rearranging the contents of those windows).

As has been previously discussed, Good provides for objects to make room for/move out of the way of a particular object that a user may be making larger or dragging across a display area, for example. The Applicant respectfully submits that the windows of Good are not associated with both a first virtual workspace and a second virtual workspace. Rather, at most, the windows of Good may be viewed as being part of a single workspace.

Additionally, while Good may arguably be read to disclose that the same objects in the display area are rearranged to a new layout when one of the objects changes size or is moved, the Applicant respectfully submits that this new layout is dynamically/interactively determined; it is not a second virtual workspace providing a predefined layout for the plurality of windows.

Further, the Applicant respectfully submits that the rearrangement of windows in Good is not based on the activation of the second virtual workspace in response to detecting a triggering event associated with the second virtual workspace by monitoring data related to one or more tradeable objects. Rather, as previously discussed, Good dynamically rearranges windows based on a user-driven input action such as resizing/dragging an object in the display area. Even assuming there is a first virtual workspace, there is no second virtual workspace in Good. Additionally, there is no triggering event definition associated with any virtual workspace in Good.

Accordingly, without conceding the propriety of the asserted combination, the Applicant respectfully submits that, even in view of the knowledge of one of ordinary skill in the art, Good does not cure the deficiencies of Risberg discussed above. Thus, the proposed combination of Risberg and Good cannot and does not teach or suggest the entirety of the features recited in the pending claims. Therefore, the Applicant respectfully submits that independent claims 41 and 67 should be allowable over the cited art of record for at least the reasons discussed above.

With respect to claims 42-66, these claims depend from independent claim 41. The Applicant respectfully submits that claims 42-66 should be allowed for at least the reason that they each depend from an allowable claim.

The Applicant now turns to the rejection of claims 12-13 and 16 under 35 U.S.C. § 103(a) as being unpatentable over Risberg in view of Good further in view of Official Notice.

As discussed above, the rejected claims have been cancelled, and therefore, the Applicant respectfully submits that these rejections are moot and should be withdrawn.

Insofar as a similar rejection may be applied to the new claims, the Applicant respectfully submits that an assertion of Office Notice is no longer appropriate. As stated in § MPEP 706.02, rejections “should ordinarily be confined strictly to the best available art.” The Applicant respectfully submits that because the Examiner is now aware of the Stark and Lapidous references, they are “better” art than an assertion of Official Notice and any rejection should utilize these references rather than maintaining the assertion of Official Notice.

The Applicant respectfully submits that none of Stark, Lapidous, and the assertions of Official Notice cures the deficiencies of Risberg and Good, discussed above. Consequently, the applicant respectfully submits that the new claims are patentable over the cited art.

VIII. Conclusion

In general, the Office Action made various statements regarding the pending claims and the cited art that are now moot in light of the above. Thus, the Applicant will not address such statements at the present time. However, the Applicant expressly reserves the right to challenge such statements in the future should the need arise (for example, if such statements should become relevant by appearing in a rejection of any current or future claim).

All the stated grounds of objection and rejection have been respectfully traversed, accommodated, or rendered moot. The Applicant therefore submits that the present application is in condition for allowance. If the Examiner believes that further dialog would expedite consideration of the application, the Examiner is invited to contact Trading Technologies in-house Patent Counsel Adam Faier at 312-698-6003, or the undersigned attorney.

Respectfully submitted,

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